

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DARION SEARS,

Petitioner,

v.

NATHALIE R. ASHER, Field Office Director,
Immigration and Customs Enforcement, et al.,

Respondents.

Case No. 12-2147-RSL-BAT

**ORDER DIRECTING RESPONSE
TO MOTION FOR PRELIMINARY
INJUNCTIVE RELIEF**

This is a federal habeas action under 28 U.S.C. § 2241. Petitioner filed his federal habeas petition, through counsel, on December 11, 2012. Dkt. No. 1. Petitioner asserts in his petition that he is being unlawfully detained by respondents and he requests that this Court order respondents to immediately release him from custody or, in the alternative, order respondents to provide him with an individualized bond hearing before a neutral immigration judge. On December 11, 2012, the Court issued an Order directing that the petition be served on respondents and that respondents show cause why the petition should not be granted within 30 days after service. Dkt. No. 3.

On December 12, 2012, petitioner filed a motion for temporary restraining order, or in the alternative, for an expedited decision. Dkt. No. 4. Petitioner identifies in his motion the

1 same bases for relief as were identified in his petition and he appears to request essentially the
2 same relief as was requested in his petition, albeit on an expedited basis.

3 The Court, having reviewed petitioner's motion, and the balance of the record, does
4 hereby ORDER:

5 (1) Petitioner has not demonstrated, as required by Rule 65(b) of the Federal Rules of
6 Civil Procedure, that he will suffer immediate and irreparable injury, loss, or damage before
7 respondents can be heard in opposition. The Court therefore construes petitioner's motion as one
8 for preliminary injunction rather than as one for temporary restraining order. As respondents'
9 return to the underlying petition is currently due within 30 days after service, and as petitioner
10 requests essentially the same relief in his petition and in his motion for preliminary injunctive
11 relief, respondents are directed to incorporate any response in opposition to petitioner's motion
12 into the return to the underlying petition. Petitioner's motion for preliminary injunctive relief
13 will be deemed ripe for consideration on the same date as the underlying petition.

14 (2) Petitioner requests, in the alternative, that the Court suspend the rules and issue an
15 expedited briefing schedule to resolve this matter, which the Court construes as a motion to
16 shorten time. Counsel for petitioner is reminded that motions to shorten time have been
17 abolished in this District (LCR 6(b)). Therefore, petitioner's request to shorten time is DENIED.

18 (3) The Clerk shall direct a copy of this Order to counsel for petitioner, to the United
19 States Attorney for the Western District of Washington, and to the Honorable Robert S. Lasnik.

20 DATED this 13th day of December, 2012.

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23 BRIAN A. TSUCHIDA
United States Magistrate Judge